

## Social Security Administration

## §410.692

be withdrawn. The notice of withdrawal shall be mailed to the individual charged at his last known address.

[36 FR 23760, Dec. 14, 1971, as amended at 62 FR 38453, July 18, 1997]

### **§410.691 Referral to the Deputy Commissioner for Programs and Policy, or his or her designee, for hearing and decision.**

If action is not taken to withdraw the charges before the expiration of 15 days after the time within which an answer may be filed, the record of the evidence in support of the charges shall be referred to the Deputy Commissioner for Programs and Policy, or his or her designee, with a request for a hearing and a decision on the charges.

[36 FR 23760, Dec. 14, 1971, as amended at 62 FR 38453, July 18, 1997]

### **§410.692 Hearing on charges.**

(a) *Hearing officer.* Upon receipt of the notice of charges, the record, and the request for hearing (see §410.691), the Deputy Commissioner for Programs and Policy, or his or her designee, shall designate an Administrative Law Judge to act as a hearing officer to hold a hearing on the charges. No hearing officer shall conduct a hearing in a case in which he is prejudiced or partial with respect to any party or where he has any interest in the matter pending for decision before him. Notice of any objection which a party to the hearing may have to the hearing officer who has been designated to conduct the hearing shall be made at the earliest opportunity. The hearing officer shall consider the objection(s) and shall, in his discretion, either proceed with the hearing or withdraw. If the hearing officer withdraws, another hearing officer shall be designated as provided in this section to conduct the hearing. If the hearing officer does not withdraw, the objecting party may, after the hearing, present his objections to the Appeals Council as reason why he believes the hearing officer's decision should be revised or a new hearing held before another hearing officer.

(b) *Time and place of hearing.* The hearing officer shall notify the individual charged and the Deputy Com-

missioner for Programs and Policy, or his or her designee, of the Administration, of the time and place for a hearing on the charges. The notice of the hearing shall be mailed to the individual charged at his last known address and to the Deputy Commissioner for Programs and Policy, or his or her designee, not less than 20 days prior to the date fixed for the hearing.

(c) *Change of time and place for hearing.* The hearing officer may change the time and place for the hearing (see paragraph (b) of this section) either on his own motion or at the request of a party for good cause shown. The hearing officer may adjourn or postpone the hearing, or he may reopen the hearing for the receipt of additional evidence at any time prior to the mailing of notice of the decision in the case (see §410.693). Reasonable notice shall be given to the parties of any change in the time or place of hearing or of any adjournment or reopening of the hearing.

(d) *Parties.* A person against whom charges have been preferred under the provisions of §410.688 shall be a party to the hearing. The Deputy Commissioner for Programs and Policy, or his or her designee, of the Administration, shall also be a party to the hearing.

(e) *Subpenas.* Any party to the hearing may request the hearing officer or a member of the Appeals Council to issue subpenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents which are relevant and material to any matter in issue at the hearing. The hearing officer may on his own motion issue subpenas for the same purposes when he deems such action reasonably necessary for the full presentation of the facts. Any party who desires the issuance of a subpoena shall, not less than 5 days prior to the time fixed for the hearing, file with the hearing officer a written request therefor, designating the witnesses or documents to be produced, and describing the address or location thereof with sufficient particularity to permit such witnesses or documents to be found. The request for a subpoena shall state the pertinent facts which the party expects to establish by such witness or document and